

## **EXHIBIT N**



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July 23, 2019

**Via Email, Sara.Tennant@usdoj.gov**

Sara B. Tennant, Senior Government Information Specialist  
OIP, US DOJ  
1425 New York Avenue, NW, Suite 11050  
Washington, D.C. 20530-0001

**Re: Processing of February 25, 2019 FOIA Request (Ref No. DOJ-2019-002653)**

Dear Ms. Tennant:

We appreciate your response to our request for a status update concerning DOJ's processing of our February 25, 2019 FOIA request (the "Request") seeking records relating to surveillance of refugees. We are troubled, however, by DOJ's response that it does not expect to complete its initial search for responsive records for "several months." As you know, Requestors submitted the Request on February 25, 2019, nearly five months ago, and did not receive an initial acknowledgment from DOJ until April 4, 2019, by which time DOJ's statutory deadline to respond—even with its unusual circumstances extension—had already expired. We then heard nothing further from DOJ for over four months and received your recent correspondence only after additional follow-up. We are now faced with further uncertainty as to the timeline of DOJ's determination on the Request.

We are further puzzled by your indication that the search conducted thus far has not revealed any responsive records. The Request itself identifies records that must exist and are clearly responsive. For example, Requests Nos. 4, 5, and 12<sup>1</sup> seek supporting documentation for specifically identified statements made by government officials. Having received no indication to the contrary, we believe that responsive records are

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<sup>1</sup> Requests No. 4 and 5 seek records pertaining to former Attorney General Jeff Session's public statement on March 6, 2017 that "more than 300 people, according to the FBI, who came here as refugees are under an FBI investigation today for potential terrorism-related activities." Request No. 12 seeks records provided to the Senate Judiciary Committee in response to an August 20, 2018 letter from Senator Chuck Grassley, which letter is publicly available.

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readily accessible, and DOJ would be able to locate these documents even while performing a full-scale custodial search and review.

An indefinite timeline for performing an initial search without a clear determination is an improper agency response to a FOIA request and opens the door to Requestors' filing suit to enforce judicial oversight of the response process. *See* 5 U.S.C. § 552(a)(6)(C)(i); *Citizens for Responsibility & Ethics in Washington v. Fed. Election Comm'n*, 711 F.3d 180, 186-187 (D.C. Cir. 2013) (observing that "[a]lthough the agency may desire to keep FOIA requests bottled up in limbo for months or years on end, the statute simply does not countenance such a system ...."). While reserving our rights to pursue legal remedies for the agency's unreasonable delay in court, we are willing to work with DOJ to ensure the prompt processing and release of responsive records in order to avoid litigation. To expedite the process, we request that DOJ confirm its willingness to produce records on a rolling basis, and that it identify specific requests that it can prioritize and a reasonable timeline for doing so.

We look forward to hearing from you to explore these or other options for prompt processing and release of responsive records.

Sincerely,

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